

United States District Court
Central District of California

MAURICE HASTINGS,
Plaintiff,

v.
GRANT PRICE et al.,
Defendants.

Case № 2:23-cv-09684-ODW (AGRx)

**ORDER GRANTING CLARK
DEFENDANTS' MOTION TO
DISMISS [73]**

I. INTRODUCTION

Plaintiff Maurice Hastings spent thirty-eight years in prison for a crime he did not commit. (Compl. ¶¶ 38–39; ECF No. 1.) Hastings now brings an action against Grant Price, Russell Enyeart, George W. Clark, and Clark's Estate, alleging that the three men caused his wrongful incarceration and violated his constitutional rights. (*Id.* ¶¶ 3, 10–12, 89–91, 112–37.) Clark and his Estate now move to dismiss Hastings's claims against them for lack of personal jurisdiction, insufficient service, and failure to state a claim. (Mot. Dismiss ("Motion" or "Mot."), ECF No. 73.) For the reasons below, the Court **GRANTS** the Motion.¹

¹ After carefully considering the papers filed in connection with the Motion, the Court deemed the matter appropriate for decision without oral argument. Fed. R. Civ. P. 78; C.D. Cal. L.R. 7-15.

II. BACKGROUND²

Maurice Hastings was wrongly convicted and spent over thirty-eight years in prison for a murder that he did not commit. (Compl. ¶¶ 5, 38–39.) On March 1, 2023, the Los Angeles County Superior Court found Hastings factually innocent. (*Id.* ¶ 39.) On November 15, 2023, Hastings filed this action against Grant Price, Russell Enyeart, George W. Clark through his successor in interest, and Clark’s Estate. (*Id.* ¶¶ 3, 10–12.) Hastings alleges that Price and Enyeart—as Inglewood Police Department detectives—and Clark—as a Los Angeles County (“County”) District Attorney investigator—conspired to frame him for the murder and fabricated evidence against him, causing his wrongful conviction and imprisonment. (*Id.* ¶¶ 3, 10–12, 89–91, 112–137.) Clark died while Hastings was in prison, and before DNA evidence proved Hastings’s innocence. (Defs.’ Notice Suggestion Death (“Notice Death”), ECF No. 75; Compl. ¶¶ 1, 35–36.) As a result, Hastings names in this action Clark, through his successor in interest Joann M. Clark, also deceased, and Clark’s Estate in place of Clark himself (Clark and Estate are collectively “Clark Defendants”). (Notice Death; Compl. ¶¶ 12–13.)

Clark Defendants move to dismiss Hastings’s claims against them, arguing (1) the Court lacks personal jurisdiction over Clark—Federal Rule of Civil Procedure (“Rule”) 12(b)(2), (2) Hastings failed to effectively serve Clark or his Estate—Rule 12(b)(5), and (3) Hastings fails to state a claim against Clark’s Estate on which relief can be granted—Rule 12(b)(6). (Mot. 2–3.) The Motion is fully briefed. (*See* Opp’n, ECF No. 79; Reply, ECF No. 80.)

III. LEGAL STANDARD

Under Rule 12(b)(2), a party may move to dismiss a complaint for lack of personal jurisdiction. *Schwarzenegger v. Fred Martin Motor Co.*, 374 F.3d 797, 800 (9th Cir. 2004). The plaintiff bears the burden to demonstrate that jurisdiction is

² The background facts are drawn from Hastings’s Complaint and the Court accepts as true all well-pleaded allegations for this Motion. *See Ashcroft v. Iqbal*, 556 U.S. 662, 678–79 (2009).

1 appropriate, and the court accepts plaintiff's well-pleaded allegations as true. *Id.* A
2 plaintiff can establish the court's personal jurisdiction over a defendant by personally
3 serving the defendant in the forum state. *Burnham v. Superior Ct. of Cal., Marin*,
4 495 U.S. 604, 612 (1990).

5 Under Rule 12(b)(5), a party may move to dismiss a complaint for insufficient
6 service of process. Proper service of process is a prerequisite to the court's exercise of
7 personal jurisdiction over a defendant. *See Jackson v. Hayakawa*, 682 F.2d 1344, 1347
8 (9th Cir. 1982) ("Defendants must be served . . . or there is no personal jurisdiction.").
9 Where the court finds service insufficient, it "must dismiss the action without
10 prejudice . . . or order that service be made within a specified time." Fed. R. Civ.
11 P. 4(m).

12 Under Rule 12(b)(6), a party may move to dismiss a complaint for failure to state
13 a claim on which relief may be granted. To survive a Rule 12(b)(6) motion to dismiss,
14 a plaintiff must "state a claim to relief that is plausible on its face." *Iqbal*, 556 U.S.
15 at 678 (quoting *Bell Atl. Corp. v. Twombly*, 550 U.S. 544, 570 (2007)). More
16 specifically, the plaintiff needs to provide "enough fact[s] to raise a reasonable
17 expectation" of a claim. *Twombly*, 550 U.S. at 556. Courts take plaintiff's allegations
18 in the complaint as true, but the same does not apply to "mere conclusory statements."
19 *Iqbal*, 556 U.S. at 678. Courts must "draw on [their] judicial experience and common
20 sense" when weighing whether a claim plausibly entitles plaintiff to relief, and make
21 all reasonable inferences in favor of the nonmovant. *See id.* at 678–79.

22 IV. DISCUSSION

23 Clark Defendants move to dismiss Hastings's claims against Clark on the
24 grounds that the Court lacks personal jurisdiction over Clark because he is deceased.
25 (Mot. 11–12.) Clark Defendants also move to dismiss Hastings's claims against the
26 Estate on the grounds that they are time-barred. (*Id.* at 15–19.) Hastings effectively
27
28

1 concedes his claims against Clark but contends that he may proceed against Clark's
2 Estate instead. (Opp'n 4 n.3.³)

3 **A. Clark, Through His Successor in Interest**

4 Clark Defendants argue the Court should dismiss Hastings's suit against Clark
5 because a court cannot exercise personal jurisdiction over the deceased. (Mot. 11–12.)
6 Additionally, Clark Defendants argue Hastings may not substitute Clark's successors in
7 interest as defendants because Rule 25 does not allow substitutions where the defendant
8 predeceases the suit's filing. (*Id.*)

9 A party can sue an estate representative or a successor, but “a party cannot
10 maintain a suit . . . against . . . a dead person.” *LN Mgmt., LLC v. JPMorgan Chase*
11 *Bank, N.A.*, 957 F.3d 943, 955 (9th Cir. 2020). The Ninth Circuit has noted that the
12 “dead do not provide the requisite adversarialness to make them parties to an Article III
13 case or controversy.” *Id.* Similarly, the dead cannot receive service of summons that
14 would allow a court to exercise personal jurisdiction over them. *See Gilmore v.*
15 *Lockard*, 936 F.3d 857, 864 (9th Cir. 2019) (“[S]ervice of summons must be completed
16 before a federal court may exercise personal jurisdiction over a party” (citing *Omni*
17 *Cap. Int'l, Ltd. v. Rudolf Wolff & Co.*, 484 U.S. 97, 104 (1987))). In cases where a party
18 to a suit dies after its commencement, Rule 25 allows the plaintiff to substitute another
19 party for a decedent, such as the estate representative or the successor, to effectuate
20 service and grant the court personal jurisdiction. *See Lacy v. Tyson*, No. 1:07-cv-00381-
21 LJO-GSA-PC, 2012 WL 4343837, at *1 (E.D. Cal. Sept. 20, 2012); *Gilmore*, 936 F.3d
22 at 864 (“[S]ervice *after* substitution . . . ensur[es] that a court has personal jurisdiction
23 over the new, proper party.”).

24 Clark died in 2011, twelve years before Hastings filed this suit. (*See* Compl.
25 ¶ 12; Notice Death.) To the extent Hastings names Clark as a defendant, Hastings may
26 not sue Clark, who was already deceased at the time Hastings commenced this action

27 ³ The Court notes that Hastings's abuse and misuse of footnotes in the opposition brief runs deeply
28 afoul of the Court's Local Rules. (*See, e.g.,* Opp'n 4 n.4.) Hastings is cautioned that such flagrant
non-compliance will not be tolerated in future filings.

1 in 2023. *See LNMgmt.*, 957 F.3d at 951 (“[Y]ou cannot sue a dead person.”). Likewise,
2 Hastings cannot sue Clark’s successor in interest Joann M. Clark, because like Clark,
3 she predeceased Hastings’ filing. (Pl.’s Decl. Christina Matthias ISO Default (“Decl.
4 Matthias”) ¶ 5, ECF No. 49-1.) To the extent Hastings seeks to substitute a different
5 successor in interest, Hastings may not now employ Rule 25 for the same reason: Joann
6 M. Clark predeceased Hastings’s suit. (Decl. Matthias ¶ 5); *see Lacy*, 2012 WL
7 4343837, at *2 (stating that substitution of parties under Rule 25 is not permitted
8 “where the person for whom substitution is sought died prior to being named a party”).
9 Accordingly, the Court lacks personal jurisdiction over Clark and his successor in
10 interest, both deceased, and Hastings may not substitute another party to cure this
11 deficiency. Therefore, the Court dismisses Hastings’s claims against Clark by and
12 through his successor in interest.

13 **B. Clark’s Estate**

14 Clark Defendants also argue that Hastings fails to state a claim against Clark’s
15 Estate because Hastings’s claims are time-barred under California Code of Civil
16 Procedure (“CCP”) section 366.2. (Mot. 15–16.) Hastings contends that his claims are
17 timely under California Probate Code (“PC”) section 550, and the CCP section 366.2
18 statute of limitations does not apply. (Opp’n 9.)

19 *1. California Code Civil Procedure Section 366.2*

20 “For actions under 42 U.S.C. § 1983,” like Hastings’s here, “courts apply the
21 forum state’s statute of limitations for personal injury actions.” *Jones v. Blanas*,
22 393 F.3d 918, 927 (9th Cir. 2004), *cert denied*, 546 U.S. 820 (2005). However, under
23 CCP section 366.2, a tort action against a decedent may only “be commenced within
24 one year after the date of [defendant’s] death,” regardless of a claim’s accrual. Cal.
25 Civ. Proc. Code § 366.2(a); *Coley v. Ventura County*, No. 2:18-cv-10385-PA (JDEx),
26 2019 WL 7905740, at *6 (C.D. Cal. Sept. 24, 2019) (applying CCP section 366.2 in a
27 § 1983 action). “[T]he limitations period that would have been applicable does not
28 apply.” Cal. Civ. Proc. Code § 366.2(a). Courts should strictly enforce this statute of

1 limitations, even when it “would yield a harsh result,” because it serves a “strong public
2 policy of expeditious and final estate administration.” *Hanline v. County of Ventura*,
3 No. 2:15-cv-08808-VAP (AJWx), 2016 WL 3360672, at *2 (C.D. Cal. June 8, 2016)
4 (discussing *Bradley v. Breen*, 73 Cal. App. 4th 798, 804–06 (1999)).

5 Clark died in 2011. Thus, under CCP section 366.2, a potential plaintiff must
6 bring any claims against Clark’s Estate no later than 2012, one year after Clark’s death.
7 See Cal. Civ. Proc. Code § 366.2(a); (Notice Death). However, Hastings filed his
8 claims against Clark’s Estate in 2023. As a result, CCP section 366.2 bars Hastings’s
9 claims against Clark’s Estate unless Hastings establishes that an exception applies.

10 2. *California Probate Code Section 550*

11 Hastings contends that his claims are timely under PC sections 550 and 551,
12 which Hastings asserts save him from the harsh results of CCP section 366.2.
13 (Opp’n 8–9); see Cal. Prob. Code § 551 (providing the statute of limitations for actions
14 against a decedent under PC section 550).

15 “California Probate Code [section 550] provides an exception to [CCP
16 section 366.2] when a plaintiff sues a decedent’s estate and the decedent was protected
17 by insurance” *Coley*, 2019 WL 7905740, at *6 (citing Cal. Prob. Code § 551).
18 When a plaintiff sues the estate’s insurer pursuant to PC section 550, the associated
19 statute of limitations in section 551 permits the “action [to] be commenced within one
20 year after the expiration of the limitations period otherwise applicable,” regardless of
21 CCP section 366.2, so long as “the limitations period otherwise applicable to the action
22 has not expired at the time of the decedent’s death.” Cal. Prob. Code § 551.

23 To take advantage of PC section 550, a plaintiff must “name as the defendant,
24 ‘Estate of (name of decedent), Deceased’” and serve summons “on the insurer.” Cal.
25 Prob. Code § 552; see *Tajran v. Est. McDonald*, No. 19-cv-1290-BAS-KSC, 2020 WL
26 256209, at *6 (S.D. Cal. Jan. 17, 2020). The California Supreme Court and courts
27 within the Central District have held that “proof of insurance coverage is essential to
28 recovery” for claims brought pursuant to PC section 550. *Hanline*, 2016 WL 3360672,

1 at *3 (first citing *Escobedo v. Est. Snider*, 14 Cal. 4th 1214, 1228 (1997); and then citing
2 *Pelayo v. City of Downey*, 570 F. Supp. 2d 1183, 1197 (C.D. Cal. 2008)). The plaintiff
3 “bears the burden of proving that insurance coverage exists.” *Pelayo*, 570 F. Supp. 2d
4 at 1193 (citing *Escobedo*, 14 Cal. 4th at 1228).

5 Although Hastings correctly names Clark’s Estate, he fails to plead or prove
6 insurance coverage and proper service on the insurer with the factual support necessary
7 to survive a motion to dismiss. Hastings alleges “[u]pon information and belief” that
8 insurance protects Clark’s Estate, and that Clark is escoentitled to indemnification from
9 the County. (Compl. ¶ 12.) Hastings’s single conclusory allegation, that insurance
10 exists because of an indemnification scheme, is not sufficient to plead that Clark’s
11 Estate has insurance or that it is otherwise covered by any insurance, so as to allow
12 Hastings to proceed under PC section 550. (*Id.* ¶ 12, *see generally* Opp’n.)

13 Though Hastings does not need to *prove* insurance coverage exists to survive a
14 Rule 12(b)(6) motion to dismiss, he must still allege “enough fact[s] to raise a
15 reasonable expectation” that insurance covers Clark’s Estate. *See Twombly*, 550 U.S.
16 at 556. Hastings argues that his allegations of indemnification suffice because “the
17 County has an independent, mandatory duty to indemnify and defend public employees,
18 like Clark, for conduct within the scope of their employment,” and the Court should
19 accept the County’s statutory indemnification scheme as an adequate showing of
20 insurance. (Opp’n 3–5.) However, “[i]ndemnification is not an exception to [insurance
21 for purposes of PC] section 550.” *Hanline*, 2016 WL 3360672, at *3; *see also Coley*,
22 2019 WL 7905740, at *6 (same). Probate Code section 550 requires “insurance,” and
23 “the Court is not at liberty to change the meaning of the word ‘insur[ance]’ in the
24 California Probate Code.” *Roberts v. County of Riverside*, No. 5:19-cv-1877-JGB
25 (SHKx), 2021 WL 408138, at *3 (C.D. Cal. Jan. 14, 2021) (discussing PC sections 550
26 and 552). Accordingly, Hastings does not plead sufficient facts to establish that
27 insurance covers Clark’s Estate and the Court does not accept indemnity as a substitute
28 under PC section 550.

1 In sum, it is clear on the face of the Complaint that CCP section 366.2, and not
2 PC section 550, applies to Hastings's claims. Hastings did not bring his claims against
3 Clark's Estate within one year of Clark's death, and he fails to establish that he may
4 take advantage of PC section 550's exception for insured decedents. Therefore,
5 Hastings's claims against Clark's Estate are time-barred and dismissal is appropriate.
6 *See Horne v. Harley-Davidson, Inc.*, 660 F. Supp. 2d 1152, 1157 (C.D. Cal. 2009)
7 ("Where it is evident from the face of the complaint that the claim is barred by the
8 statute of limitations, dismissal is appropriate." (citing *Hunt v. County of Shasta*,
9 225 Cal. App. 3d 432, 441 (1990))).

10 **C. Leave to Amend**

11 Where the court finds that a claim is subject to dismissal, it must determine
12 whether to grant leave to amend. Under Rule 15, the court should freely give the party
13 leave to amend its pleadings when justice so requires. *See* Fed. R. Civ. P. 15(a)(2).
14 However, leave to amend is not appropriate when "the court determines that the
15 allegation of other facts consistent with the challenged pleading could not possibly cure
16 the deficiency." *Schreiber Distrib. Co. v. Serv-Well Furniture Co., Inc.*, 806 F.2d 1393,
17 1401 (9th Cir. 1986); *see also Leadsinger, Inc. v. BMG Music Pub.*, 512 F.3d 522, 532
18 (9th Cir. 2008) (affirming that a court may deny leave to amend when futile).

19 Here, Hastings can plead no additional facts that would entitle him to recover
20 against Clark Defendants. Hastings cannot cure his claims against Clark Defendants
21 because Clark is deceased and CCP section 366.2's one year statute of limitations bars
22 recovery against Clark's Estate. Further, Hastings does not attempt to show that Clark's
23 Estate is covered by insurance, and he cannot rely on potential indemnification as a
24 substitute for insurance to proceed under PC section 550. Thus, as the Court finds that
25 any amendment to the pleading would be futile, the Court dismisses Hastings's claims
26 as against Clark Defendants without leave to amend.

V. CONCLUSION

For the reasons discussed above, the Court **GRANTS** Clark Defendants' Motion to Dismiss, and dismisses Hastings's claims against Clark Defendants without leave to amend. (ECF No. 73.) Hastings may thus proceed with his claims against Defendants Price and Enyeart.

IT IS SO ORDERED.

November 20, 2024



OTIS D. WRIGHT, II
UNITED STATES DISTRICT JUDGE